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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,730	08/28/2001	Alexander Thomas Ashcroft	C7564(V)	5138

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UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE,
BLDG C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

EXAMINER	
MARKOFF, ALEXANDER	
ART UNIT	PAPER NUMBER
1746	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/940,730	ASHCROFT ET AL.	
	Examiner	Art Unit	
	Alexander Markoff	1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,33-36,41,42 and 52-57* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,33-36,41,42 and 52-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

(10)

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1, 2, and 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sliva (US Patent No 6,228,821).

Sliva teaches a composition and the method of the use of the composition. The composition comprises all ingredients required by the claims in the claimed ranges. See entire document, especially, columns 2, 7-9, 11 and 15.

Sliva also teaches a method of the use of the composition.

Sliva does not specifically teach then sequence of the claimed steps. However, he teaches application of the disclosed composition for hard surface cleaning, laundry, etc.

It would have been obvious to an ordinary artisan at the time the invention was made that hard surfaces, fabrics, etc. are repeatedly cleaned, and accordingly, it would have been obvious to an ordinary artisan that such repeated application of the composition of Sliva would provide the claimed sequence.

5. Claims 55 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sliva as applied above, and further in view of Policicchio et al (US Patent No 6,663,306).

Sliva as it has been shown above shows that the claimed invention was obvious except for the application of the composition as a wipe.

Policicchio et al teach that wipes were a conventional form of application of the cleaning composition.

It is also the examiner's position that wiping is the most common way for application cleaning compositions.

It would have been obvious to an ordinary artisan at the time the invention was made to provide the composition of Sliva in the form of wipe with reasonable expectation of adequate results in order to provide the composition in the package, which is ready for use and to apply the composition in the disclosed method with wipe.

6. Claims 33-36, 41-42 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sliva as applied to claim 1 above, and further in view of Stoddart (US Patent No 4,783,283).

Sliva does not specifically teach the claimed viscosity. However, he teaches different ingredients to influence viscosity.

Stoddart teaches that to provide stability to cleaning composition the viscosity should be at lest 200mPaS. See at least column 6, lines 7-23.

It would have been obvious to an ordinary artisan at the time the invention was made to make the composition of Sliva with a viscosity disclosed by Stoddart in order to provide a stable composition.

Response to Arguments

7. Applicant's arguments filed 8/26/05 have been fully considered but they are not persuasive.

8. The applicants have not amended the claims.

The applicants argue that the specific antioxidants are exemplified by Silva. This is not persuasive because Silva in contrast to the applicants statement teaches the use

of the specifically claimed antioxidants. See at least a disclosure of tannic acid at column 7, lines 48-51.

The applicants further again argue that the concentrations of the claimed chemicals disclosed by Silva et al are different. The applicants state that Sliva teaches away from the concentrations antioxidants recited by the claims.

This is not persuasive. The examiner again points out that the claimed concentrations are disclosed by the document. See at least column 7, lines 52-54. The fact, that that in some embodiments the document teaches different concentrations does not change the fact that the claimed concentrations of the chemicals are disclosed.

The applicants also argue that Sliva does not teach or suggest that application of cleanser prior to soil deposition improves subsequent cleansing.

This is not persuasive. The limitation requiring the claimed sequence was addressed in the previous and the instant Office actions. The examiner remains in the position that it would have been obvious to an ordinary artisan at the time the invention was made that hard surfaces, fabrics, etc. are repeatedly cleaned, and accordingly, it would have been obvious to an ordinary artisan that such repeated application of the composition of Sliva would provide the claimed sequence. The argument that Silva would not necessarily repetitively clean the substrates is not persuasive because it would have been obvious to an ordinary artisan at the time the invention was made that hard surfaces, fabrics, etc. are repeatedly cleaned.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

As to the improved cleaning: the examiners position is that the regularly cleaned (and thereby cleaner) articles are much easy to clean than the articles, which were not cleaned for a long period of time. It is also noted that no unexpected results were achieved by the claimed method.

It is again noted that the claims are not limited to formation of the film of the dried composition comprising the antioxidants as described in the specification on page 6.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Markoff whose telephone number is 571-272-1304. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alexander Markoff
Primary Examiner
Art Unit 1746

AM

ALEXANDER MARKOFF
PRIMARY EXAMINER